

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated February 6, 2007 (hereinafter Office Action) have been considered. Claims 1-25 remain pending in the application. The specification and drawings have been amended to overcome the Examiner's objection. A newly signed declaration has been submitted to overcome the Examiner's objection. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the Oath or Declaration, Applicants have enclosed a Supplemental Declaration. Submission of this Supplemental Declaration is believed to overcome any objections to the oath or declaration.

With respect to the objection to Fig. 5, the Applicants submit the enclosed replacement sheet of Fig. 5 which has deleted reference number 514. Accordingly, the Applicants request that the objection be removed.

Claims 16-20 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Applicant respectfully traverses the rejection. Page 4 of the Office Action states "[as defined] in the specification, the computer usable media can be carried out through transmitting mediums." Applicants respectfully disagree. The Specification states, in relevant part

Articles of manufacture encompassing code to carry out functions associated with the present invention are intended to encompass a computer program that exists permanently or temporarily on any computer-usable medium **or** in any transmitting medium which transmits such a program. Transmitting mediums include, but are not limited to, transmissions via wireless/radio wave communication networks, the Internet, intranets, telephone/modem-based network communication, hard-wired/cabled communication network, satellite communication, and other stationary or mobile network systems/communication links. (Specification, paragraph 0071)(emphasis added)

As should be apparent from this excerpt, articles of manufacture may include a computer program, and such program can exist in a computer usable medium or a transmitting medium. Thus it would be unreasonable to conclude that the above paragraph is defining a computer usable medium to include a transmitting medium. On the contrary, a clear distinction has been made between a computer usable medium and a transmitting medium

by the use of the conjunctive “or.” As such, Applicant respectfully submits that Claims 16-20, which are directed to computer readable medium, are directed to statutory subject matter, and withdrawal of the rejection is respectfully requested.

Claims 1-3, 5-9, 11-14, 16-18, 20-23 and 25 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2003/0065805 by Barnes, Jr. (hereinafter “*Barnes*”). Applicant respectfully traverses the rejection. To anticipate a claim the reference must teach every element of the claim, and it is respectfully submitted that *Barnes* does not meet this standard.

Independent Claim 1, 7, 12, 16, and 21 all contain descriptions of using a WAP CO OTA push session to communicate a Web service message to a wireless terminal. For example, Claim 1 is directed to a method involving forming a Web service message at a first network entity and establishing a Wireless Application Protocol (WAP) Connection-Oriented (CO) Over-The-Air (OTA) push session with a second network entity. A transport protocol is bound with the WAP CO OTA push session and the Web service message is sent to the second network entity via the WAP CO OTA push session using the transport protocol. In contrast, *Barnes* is at least deficient in expressly or inherently using WAP CO OTA for any purposes. *Barnes* is particularly deficient in showing a Web services message being sent to a mobile terminal via WAP CO OTA.

Applicant first notes that the Office Action relies on paragraph 0054 of *Barnes* to anticipate Claim 1. However, paragraph 0054 states, in its entirety, “As an alternate or in addition to Bluetooth technology, the device 101 may include hardware and software for communicating via the Echnonet standard.” As set forth in M.P.E.P. §707.07(d), the grounds of rejection are to be fully and clearly stated. As should be apparent, paragraph 0054 bears no relation to Applicant’s Claim 1. Therefore, if the Examiner continues to maintain a rejection of claims based on *Barnes*, the Applicant respectfully requests clarification on which portions of *Barnes* are relied up in the rejection of Claim 1. Nevertheless, Applicants respectfully submit that *Barnes* fails to anticipate independent Claim 1, as well as independent Claims 7, 12, 16, and 21, because *Barnes* fails to describe the use of WAP CO OTA push sessions.

Barnes is directed to “providing location based functions and mobile e-commerce” based on “location data.” (*Barnes*, Abstract). In paragraphs 0061, 0062, 0395-0397 and 0406, *Barnes* uses the term “WAP” in very high-level descriptions. *E.g.*, “request is sent to a Gateway Server using WAP,” (*Barnes*, 0061); “WAP is designed to work on any of the existing wireless services...the WDP specification lists the bearers that are supported and the techniques used to allow WAP protocols to run over each bearer,” (*Barnes*, 0062); “a service gateway computer system (SGCS) receives the requests... from the device 101 via a WAP or XML request,” (*Barnes*, 0395); “product data may be in any suitable format such as an HTML page, XML, a WAP page,” (*Barnes*, 0406). Nowhere does *Barnes* expressly or inherently describe the use of WAP push or WAP CO OTA push.

Applicants respectfully submit that the mere mention of “WAP” in *Barnes* is insufficient to expressly or inherently show the use of WAP CO OTA push as set forth in Applicant’s claims. “The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim.” MPEP § 2131, quoting *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The term “WAP” is used to describe a protocol suite that allows interoperability between equipment and software of different vendors. The Applicant’s claims describe a specific component of the WAP specification, that of WAP CO OTA push. As set forth in Applicant’s Specification, “Push OTA is a thin, stateless, application protocol layer that can be built on top of the WSP layer or the HTTP layer. Push OTA provides the ability to push contents to WAP clients.” (Specification, 0036). Therefore, in order to anticipate Applicant’s claims, *Barnes* must describe the use of WAP CO OTA push “in as complete detail as is contained in the patent claim.”

A text search of the *Barnes* reference reveals no use of the terms “WAP push,” “push,” “CO,” “connection oriented,” “OTA,” etc. Clearly, then, *Barnes* does not expressly describe the use of WAP CO OTA push. Nor does anything in *Barnes* inherently require or suggest the use of WAP push. For example, *Barnes* only describes use of WAP in the context of a browsing with a WAP client; *e.g.*, “request is sent to a Gateway Server using WAP,” (*Barnes*, 0061); “a service gateway computer system (SGCS) receives the requests... from the device 101 via a WAP or XML request,” (*Barnes*, 0395). These examples all describe a standard mobile client accessing a Web server as a WAP client, and

Barnes does not describe any terminals that are configured as servers to respond to incoming service requests via an application protocol of WAP that provides the ability to push contents to WAP clients. Therefore, Applicants respectfully submit that *Barnes* is deficient in expressly or inherently describing any type of WAP push sessions, and in particular WAP CO OTA push sessions.

Because *Barnes* is deficient in disclosing WAP push, *Barnes* is necessarily deficient in describing the sending of a Web services message to a mobile terminal using WAP push. As described in Applicant's Specification and Claims, sending of Web services messages using WAP push allows the mobile terminal to provide Web services. For example, Claim 7 is directed to a system for providing Web services from a mobile terminal. In another example, Claim 12 is directed to a mobile terminal that receives Web service messages via a WAP CO OTA push session and processes the message at a Web services processing module. However, nowhere does *Barnes* describe a mobile terminal that provides Web services.

In the rejection of Claim 12, the Examiner relies on communications module 105 of *Barnes* to show a transceiver configured to facilitate exchange of data with the network via a WAP CO OTA push session. However, nowhere does *Barnes* state that the communications module 105 uses WAP CO OTA push, nor that the module is capable of receiving incoming Web services messages. *Barnes* merely describes a general purpose module, the functionality of which "is determined, at least in part, by the systems with which the device 101 must communicate." (*Barnes*, 0044). However, because *Barnes* is entirely silent on the use of WAP CO OTA in any of systems with which the device 101 communicates, *Barnes* fails to describe a communication module 105 that is configured to use a WAP CO OTA push session.

Further in the rejection of Claim 12, the Examiner relies on *Barnes*' "data management module #120 for configuring the messages for the right mobile terminal via the WAP CO OTA push session" to show a Web services module that receives and processes the Web service messages. (Office Action, page 8, paragraph 8(c)). However, *Barnes* does not disclose that the data management module process messages for Web services. *Barnes* merely describes the data management module 120 as providing memory management functions; e.g., "performs various administrative tasks including memory

management, perform memory back-ups, and defragment memory,” (*Barnes*, 0138); “implemented to begin storing data remotely when the remaining available (unused) memory reaches a minimum threshold,” (*Barnes*, 0140); “manages where the data is to be remotely stored,” (*Barnes*, 0140), etc. Therefore, *Barnes* does not expressly or inherently describe a mobile terminal capable of processing incoming messages to provide Web services, and therefore fails to anticipate Applicants Claims 1, 7, 12, 16, and 21.

Dependent Claims 2, 3, 5, and 6 depend from independent Claim 1; dependent Claims 8, 9, and 11 depend from independent Claim 7; dependent Claims 13, 14, and 16 depend from independent Claim 12; dependent Claims 17, 18, and 20 depend from independent Claim 16; and dependent Claims 22, 23, and 25 depend from independent Claim 21. These dependent claims also stand rejected under 35 U.S.C. §102(e) as being anticipated by *Barnes*. While Applicant does not acquiesce with the particular rejections to these dependent claims, including any assertions concerning inherency or the taking of Official Notice, these rejections are now moot in view of the remarks made in connection with independent Claims 1, 7, 12, 16, and 21. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from *Barnes*. Therefore, dependent Claims 2, 3, 5, 6, 8, 9, 11, 13, 14, 16, 17, 18, 20, 22, 23, and 25 are also in condition for allowance.

Claims 4, 10, 15, 19 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Barnes* as applied to Claims 1, 7, 12, 16, and 21, and further in view of U.S. Patent No. 6,937,588 to Park (hereinafter “*Park*”). The Applicant respectfully traverses the rejection. To establish a *prima facie* case of obviousness based on a combination of references, three basic criteria must be met, as is set forth in M.P.E.P. §2143:

- 1) There must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) There must be a reasonable expectation of success; and
- 3) The prior art references must teach or suggest all of the claim limitations.

All three criteria must be met to establish *prima facie* obviousness of a claim. For the rejections of Claims 4, 10, 15, 19 and 24, the Examiner relies on *Barnes* as teaching the substance of the claims from which these claim are dependent, namely, independent Claims

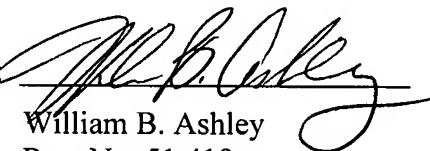
1, 7, 12, 16, and 21. The Examiner does not rely on *Park* as providing a remedy to the deficiencies of *Barnes* as it pertains to independent Claims 1, 7, 12, 16, and 21, nor does *Park* provide such a remedy. Thus, because neither *Barnes* nor *Park* teach at least the recitations of Claim 1, a combination of *Barnes* and *Park* fails to teach these recitations. Further, a combination of *Barnes* and *Park* fails to suggest the invention set forth in Claim 1, 7, 12, 16, and 21, as there is no reference to showing a Web services message being sent to a mobile terminal via WAP CO OTA. While other requisites of establishing *prima facie* obviousness may also be absent, the Applicants respectfully submit that the cited combination of references at least fails to teach or suggest all of the claim limitations. For at least this reason, Claims 4, 10, 15, 19 and 24 are not rendered obvious by the combination of *Barnes* and *Park*, and withdrawal of the rejection is respectfully solicited.

Authorization is given to charge Deposit Account No. 50-3581 (NOKM.060PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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